



UNITED STATES PATENT AND TRADEMARK OFFICE

#11

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

MAR 2 2004

Office of the Director
Group 3800

Gowling Lafleur Henderson LLP
Suite 4900
Commerce Court West
Toronto ON M5L 1J3 CANADA

In re Application of
Frank Crupi
Application No.09/917,824
Filed: July 31, 2001
For: METHOD OF IN-SITU
REJUVENATION OF ASPHALT
PAVEMENT

DECISION ON PETITION
TO WITHDRAW THE
HOLDING OF ABANDONMENT

This is a decision on applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO), on December 30, 2003.

The petition is **DISMISSED**.

A review of the file record indicates that an Office action was mailed on September 18, 2002 setting a three month shortened statutory period for response. Since no response to the September 18, 2002 Office action was received the application was held as abandoned.

Petitioner alleges that a response was timely filed on February 18, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a facsimile cover page with a Certificate of Transmission dated February 18, 2003 and a USPTO return facsimile receipt showing the above-noted facsimile cover page dated the same. The remaining papers submitted with the petition do not include a Certificate of Transmission.

However, neither the USPTO return facsimile receipt nor the facsimile cover page bearing the Certificate of Transmission specifically identify what documents were submitted by the applicant. Applicant's file reference number on the pages above does not provide evidence that an amendment to the present application was sent.

While the copy of the cover letter submitted with the petition includes a Certificate of Transmission dated February 18, 2003;

MPEP 512 states:

"(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the application number and filing date of the application as well as the type of paper being filed, e.g., reply to rejection or refusal, Notice of Appeal, etc...

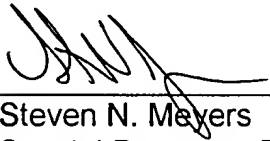
Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed."

The Certificate of Transmission is contained on a separate sheet and fails to fully identify the paper to which it accompanied. Therefore, the certification is not acceptable since there is no connection between the certification and the paper filed.

The USPTO return facsimile receipt is analogous to a self addressed return post card. MPEP section 503 requires "The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested.. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment..." See MPEP p. 500-14.

The application therefore has been properly held as abandoned is being forwarded to Files Repository.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/cps: 2/22/04